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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/693,867	10/28/2003	Mark William Birkhead	026611-000100US	4081
20350 7590 05/14/2008 TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834				
EXAMINER				
SING, SIMON P				
ART UNIT		PAPER NUMBER		
2614				
MAIL DATE		DELIVERY MODE		
05/14/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/693,867

Applicant(s)

BIRKHEAD ET AL.

Examiner

SIMON SING

Art Unit

2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 February 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SE-08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. In view of the Appeal Brief filed on 02/25/2008, PROSECUTION IS HEREBY REOPENED. A new ground of rejection set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111; or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing at the end of this office action

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Bodnick US Patent Pub. 2002/0138302.

2.1 Regarding claim 1, Bodnick teaches an interactive system to convert drug and medical specific information relating to information events, content and object data generated by an on-line drug and medical information system into interactive voice communications for transmission to a particular user (paragraph 0031), said interactive system comprising:

an application system to:

access a drug or medical profile of the user to determine content to be used for a set of dynamic prompts to be presented to the user (paragraphs 0031, 0038 and 0039);

receive a selection transmitted from the user responsive to the dynamic prompts (paragraphs 0040-0042);

receive the drug or medical specific information (such as side effects of a medicine) generated by the on-line drug and medical system in response to the selection (paragraphs 0031, 0042); and

convert said drug and medical specific information into voice content and instructions to speech (paragraphs 0038-0039);

a telephony/voice system to receive the voice content and instructions produced by said application system and to generate an interactive voice response to said voice content and instructions (paragraphs 0031-0032, 0034, 0042);

a telecommunications network (phone network 325) by which to transmit the interactive voice response generated by said telephony to the user (paragraph 0022);
and

a telephone (320) at which the user receives the interactive voice response transmitted by said telecommunications network (Phone Network 325) (paragraph 0022).

2.2 Regarding claim 2, Bodnick, as applied to claim 1 teaches wherein said telecommunications network is one of a cellular telephone network, a mobile telephone network or a public switched telephone network (paragraph 0006, 0030).

2.3 Regarding claim 3, Bodnick, as applied to claim 1, teaches wherein said telephone of the user is at least a cellular telephone (paragraph 0006, 0038).

2.4 Regarding claim 4, Bodnick, as applied to claim 1, teaches wherein said telephony/voice system has means communicating with said application system by which to receive an outbound call instruction and thereby initiate an outbound call to the telephone of the user by way of said telecommunications network, (paragraphs 0036-0038), said telephony/voice system also having means by which to accept an inbound call from the telephone of the user by way of said telecommunications network (paragraph 0027).

2.5 Regarding claim 5, Bodnick, as applied to claim 4, teaches wherein the means of said telephony/voice system to accept an inbound call from the telephone of the user is responsive to at least one of the voice of the user or audio tones (DTMF) generated by the user on the telephone of the user, (paragraphs 0036 and 0040).

2.6 Regarding claim 6, Bodnick, as applied to claim 5, teaches wherein the means of said telephony/voice system to accept an inbound call that is responsive to at least one of the voice of the user or the audio tones generated on the telephone of the user is a speech/DTMF recognition engine that is adapted to convert the user's voice and the audio tones into corresponding voice/DTMF commands (paragraphs 0036 and 0040).

2.7 Regarding claim 7, Bodnick, as applied to claim 6, teaches wherein said telephony/voice system also includes a voice instructions interpreter interconnected between said speech/DTMF engine and said application system so as to receive said voice/DTMF commands and to provide to said application system corresponding response instructions to be delivered from said application system to the on-line drug and medical information systems as information instructions (paragraphs 0036 and 0040).

2.8 Regarding claim 8, Bodnick, as applied to claim 7, teaches wherein said telephony/voice system also includes a speech/text-to-speech engine communicating with said voice instruction interpreter, said voice instruction interpreter receiving the

voice content and instructions produced by said application system and generating voice output instructions in response thereto, said speech/text-to-speech engine receiving said voice output instructions and transmitting to said telecommunications network understandable human speech that is based on said voice output instructions generated by said voice instruction interpreter (paragraphs 0038-0039).

2.9 Regarding claim 9, Bodnick, as applied to claim 7, teaches wherein said application system includes an application service that is adapted to convert the response instructions provided by the voice instruction interpreter of said telephony/voice system into information instructions to be delivered to the on-line drug and medical information system (paragraphs 0038-0039).

2.10 Regarding claim 10, Bodnick, as applied to claim 9, teaches wherein the application service of said application system generates said outbound call instruction to said telephony/voice system to initiate the outbound call to the telephone of the user, whereby to cause the drug and medical specific information from the on-line drug and medical information system to be transmitted to the user as understandable human speech (paragraphs 0038-0039).

2.11 Regarding claim 11, Bodnick, as applied to claim 9, teaches wherein said application system also includes an application database communicating with said

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application service to provide information to and receive information from said application service (paragraphs 0038-0039).

2.12 Regarding claim 12, Bodnick, as applied to claim 1, teaches wherein the drug and medical information specific information received by said application system and converted to voice content and instructions includes at least some of a description of drug or medical items, a user profile containing drug and medical items, notice of new profile event information, the current status of account, and advertising related events (paragraphs 0038-0039).

2.13 Regarding claim 13, Bodnick teaches an interactive system to convert on-line drug and medical information event information corresponding to drug and medical service provider events (abstract), content and object data into understandable human speech to be presented to a particular user (paragraph 0031) and to convert speech and/or DTMF audio generated by the user into information commands to be routed to an on-line drug and medical information system in response to the drug and medical service provider event information (paragraphs 0036 and 0040), said interactive system comprising:

means to access a drug or medical profile of the user to determine content to be used for a set of dynamic prompts to be presented to the user (paragraphs 0031, 0038 and 0039);

means to receive a selection from the user responsive to the dynamic prompts (paragraphs 0040-0042);

means to receive the drug and medical event information from the on-line drug and medical information system generated in response to the selection (paragraphs 0031-0032, 0034, 0042);

means to convert the drug and medical event information into interactive responses as understandable human speech to be presented to the user (paragraphs 0038-0039, 0042);

a telephony network to deliver said interactive responses to the user (paragraph 0022); and

means communicating with said telephony network for converting the speech and/or DTMF audio response generated by the user into the information commands to be routed to the on-line drug and medical information system (paragraphs 0038-0039).

2.14 Regarding claim 14, Bodnick, as applied to claim 13, teaches wherein the means to convert the drug and medical information event information into interactive responses as understandable human speech to be presented to the user is a speech/text-to-speech engine (paragraphs 0038-0039).

2.15 Regarding claim 15, Bodnick, as applied to claim 14, teaches wherein the means to convert the drug and medical event information into interactive responses also includes a voice instruction interpreter communicating with said speech/text-to-speech

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engine to provide voice output instructions to said speech/text-to-speech engine corresponding to the drug and medical event information received from the on-line drug and medical information system, (paragraphs 0038-0040 and 0042).

2.16 Regarding claim 16, Bodnick, as applied to claim 15, teaches wherein said means communicating with said telephony network for converting the speech and/or DTMF audio responses generated by the user into information commands includes a speech/DTMF recognition engine communicating with said voice instruction interpreter so as to provide to said voice instruction interpreter voice/DTMF commands corresponding to said speech and/or DTMF audio responses generated by the user, said voice instruction interpreter providing output information in response to said voice/DTMF commands to be routed to the on-line drug and medical information system as information commands, (paragraphs 0036, 0040 and 0042).

2.17 Regarding claim 17, Bodnick, as applied to claim 13, teaches call initiation means adapted to receive outbound call instructions and thereby initiate a call to the user by way of said telephony network so that the drug and medical event information can be transmitted to the user, (paragraphs 0038-0039).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bodnick US Patent Pub. 2002/0138302 in view of Bocionet et al. US 6,801,227.

3.1 Regarding claim 18, Bodnick teaches a method for converting drug and medical specific information relating to at least some of drug and medical service provider events, content and object data into interactive voice responses to be delivered to a particular user (paragraph 0031), said method comprising the steps of:

accessing a drug or medical profile of the user to determine content to be used for a set of dynamic prompts to be presented to the user (paragraphs 0031, 0038 and 0039);

receive a selection from the user responsive to the dynamic prompts (paragraphs 0040-0042);

generating, in response to the selection, drug and medical specific information obtained from a source (paragraphs 0038-0042);

converting the drug and medical specific information into voice content and instructions (paragraphs 0038 and 0039);

generating an interactive voice response to said voice content and instructions (paragraphs 0038-0039, 00042);

generating an interactive voice response to said voice content and instructions as understandable human speech (paragraphs 0031-0032,0034, 0042);

transmitting said interactive voice response to a telecommunications network (paragraphs 0031-0032,0034, 0042); and

delivering said interactive voice response to the user by way of said telecommunications network (paragraphs 0031-0032,0034).

Bodnick teaches an on-line system (a user is able to access the system via Internet, see paragraph 0031), which generates a response to a user selection (paragraph 0042). Bodnick fails to teach that the response is generated from received electronic data packets.

However, Bocionek teaches a server which is able to acquire, collect and process drug and medical information from on-line databases via Internet (in data packets) (figure 1; column 4, lines 7-11).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Bodnick's reference with the teaching of Bocionek, so that when a user selected side effects option in response to a prompt, the system would have accessed on-line databases to obtain side effects information if the side effects information was not stored locally. The motivation for such a modification was to obtain drug and medial information from on-line database to avoid building a local database in order to save memory space and to reduce administration burden of

constantly updating the drug and medical information when new medicines were added to user profiles.

3.2 Regarding claim 19, Bodnick, as applied to claim 18, teaches producing a user-generated voice and/or audio (DTMF) signal in reply to said interactive voice response delivered to the user (paragraphs 0036 and 0040);

transmitting said user generated voice and/or audio signal from the user by way of said telecommunications network (paragraph 0022);

receiving and converting said user generated voice and/or audio signal into electronic information instructions (paragraphs 0038-0039); and

routing said information instructions to the on-line drug and medical information system (paragraphs 0022,0036, 0040 and 0042).

3.3 Regarding claim 20, Bodnick, as applied to claim 18, teaches wherein the step of generating an interactive voice response to said voice content and instructions is accomplished by means of a voice instruction interpreter to receive said voice content and instructions and to provide corresponding voice output instructions, and a speech/text-to-speech engine communicating with said voice instruction interpreter to receive said voice output instructions and to provide said interactive voice response as understandable human speech (paragraphs 0038-0040 and 0042).

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4. Claims 1, 13, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Uppaluru US 5,915,001 in view of Holvey et al. US 7,370,349.

4.1 Regarding claim 1, Uppaluru teaches an interactive system to user specific information relating to information events, content and object data generated by an on-line information system into interactive voice communications for transmission to a particular user (column 9, lines 48-56), said interactive system in figure 1 comprising:

an application system (Voice Web Browser 106) to:

access a profile of the user to determine content to be used for a set of dynamic prompts to be presented to the user (column 9, lines 57-64; column 10, lines 9-13; column 11, lines 30-35; column 15, lines 52-65; column 17, line 63 to column 18, line 3);

receive a selection transmitted from the user responsive to the dynamic prompts (column 12, lines 6-13; column 17, line 63 to column 18, line 11);

receive the user specific information generated by the on-line information system in response to the selection (column 17, line 63 to column 18, line 11);

and

convert said user specific information into voice content and instructions to speech (column 17, line 66 to column 18, line 11; column 5, lines 51-56; column 6, lines 31-41);

a telephony/voice system (Voice and telephony interface 114) to receive the voice content and instructions produced by said application system and to generate an

interactive voice response to said voice content and instructions (column 6, lines 6-10, 24-29);

a telecommunications network (PSTN 109) by which to transmit the interactive voice response generated by said telephony to the user (column 4, lines 48-51; column 6, lines 6-10); and

a telephone 111 at which the user receives the interactive voice response transmitted by said telecommunications network (column 4, lines 48-51; column 6, lines 6-10; column 9, lines 57-64).

Uppaluru teaches using a telephone to access online user information and other public online information (column 9, lines 48-56), but fails to teach that the online user information includes user medical or drug information.

However, Holvey discloses an online medical information system in that a user is able to access his medical information online (column 7, line 55 to column 9, line 40).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Uppaluru reference with the teaching of Holvey, so that the voice browser 105 (figure 1) of Uppaluru would have been able to access a user's online medical information database, and to convert the user's medical information into speech for delivering to the user. The motivation for such a modification was to enable a user to retrieve his medical information using any telephony device without relying on a computer.

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4.2 Regarding claim 13, Uppaluru teaches an interactive system to convert on-line event information corresponding to events, content and object data into understandable human speech to be presented to a particular user (column 5, lines 51-56; column 9, lines 48-56; column 10, lines 9-13) and to convert speech and/or DTMF audio generated by the user into information commands to be routed to an on-line user information system in response to the event information (column 6, lines 31-41; column 10, lines 29-34), said interactive system comprising:

means to access a profile of the user to determine content to be used for a set of dynamic prompts to be presented to the user (column 9, lines 57-64; column 10, lines 9-13; column 11, lines 30-35; column 15, lines 52-65; column 17, line 63 to column 18, line 3);

means to receive a selection from the user responsive to the dynamic prompts (column 12, lines 6-13; column 17, line 63 to column 18, line 11);

means to receive the event information from the on-line user information system generated in response to the selection (column 17, line 63 to column 18, line 11);

means to convert the event information into interactive responses as understandable human speech to be presented to the user (column 17, line 66 to column 18, line 11; column 5, lines 51-56; column 6, lines 31-41);

a telephony network to deliver said interactive responses to the user (column 4, lines 48-51; column 6, lines 6-10); and

means communicating with said telephony network for converting the speech and/or DTMF audio response generated by the user into the information commands to be routed to the on-line user information system (column 6, lines 6-10, 24-29).

Uppaluru teaches using a telephone to access online user information and other public online information (column 9, lines 48-56), but fails to teach that the online user information includes user medical or drug information.

However, Holvey discloses an online medical information system in that a user is able to access his medical information online (column 7, line 55 to column 9, line 40).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Uppaluru reference with the teaching of Holvey, so that the voice browser 105 (figure 1) of Uppaluru would have been able to access a user's online medical information database, and to convert the user's medical information into speech for delivering to the user. The motivation for such a modification was to enable a user to retrieve his medical information by using any telephony device without relying on a computer.

4.3 Regarding claim 18, Uppaluru teaches a method for converting user specific information relating to at least some of events, content and object data into interactive voice responses to be delivered to a particular user (column 5, lines 51-56; column 9, lines 48-56; column 10, lines 9-13), said method comprising the steps of:

accessing a profile of the user to determine content to be used for a set of dynamic prompts to be presented to the user (column 9, lines 57-64; column 10, lines 9-

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13; column 11, lines 30-35; column 15, lines 52-65; column 17, line 63 to column 18, line 3);

receive a selection from the user responsive to the dynamic prompts (column 6, lines 24-41; column 17, line 63 to column 18, line 11);

generating, in response to the selection, electronic data packets containing information obtained from a source at an online information system (column 5, lines 51-56; column 6, lines 24-29; column 12, lines 6-13; column 17, line 66 to column 18, line 11);

converting the data packets into corresponding voice content and instructions (column 5, lines 51-56; column 6, lines 24-41; column 17, line 66 to column 18, line 11);

generating an interactive voice response to said voice content and instructions (column 6, lines 24-41; column 12, lines 6-13; column 17, line 66- column 18, line 11);

generating an interactive voice response to said voice content and instructions as understandable human speech (column 5, lines 51-56; column 6, lines 24-41; column 12, lines 6-13; column 17, line 66 to column 18, line 11);

transmitting said interactive voice response to a telecommunications network (column 5, lines 51-56; column 6, lines 24-41; column 12, lines 6-13; column 17, line 66 to column 18, line 11); and

delivering said interactive voice response to the user by way of said telecommunications network (column 5, lines 51-56; column 6, lines 6-10, 24-41; column 12, lines 6-13; column 17, line 66 to column 18, line 11).

Uppaluru teaches using a telephone to access online user information and other public online information (column 9, lines 48-56), but fails to teach that the online user information includes user medical or drug information.

However, Holvey discloses an online medical information system in that a user is able to access his medical information online (column 7, line 55 to column 9, line 40).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Uppaluru reference with the teaching of Holvey, so that the voice browser 105 (figure 1) of Uppaluru would have been able to access a user's online medical information database, and to convert the user's medical information into speech for delivering to the user. The motivation for such a modification was to enable a user to retrieve his medical information by using any telephony device without relying on a computer.

Response to Arguments

5. Regarding claims 1-17, appellant's arguments in the Appeal Brief filed on 2/25/2008 have been fully considered but they are not persuasive.

Appellant argues that Bodnic fails to teach or suggest "generating ... packets containing ... information obtained from ... an on-line drug and medical information system" in response to a selection by a user from a set of dynamic prompts (see first paragraph, page 6 of the Appeal Brief). Examiner respectfully disagrees because independent claims 1 and 13 **do not** recite "packets containing ...

information". Bodnic teaches a user requesting medical information in response to a prompt, for example, side effects of medicines which the user is taking. In response to a user's selection, Bodnic's system retrieves side effects information and converts side effects information into audio and plays to the user (paragraph 0031, 0039 and 0042). Therefore, Bodnick teaches the claimed limitation.

6. Applicant's arguments with respect to the rejection(s) of claim(s) 18-20 under USC 102(b) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Bocionek et al. US 6,801,227, Uppaluru US 5,915,001 and Holvey US 7,370,349.

Conclusion

7. Any inquiry concerning this communication or earlier communication from the examiner should be directed to Simon Sing whose telephone number is 571-272-7545. The examiner can normally be reached on Monday - Friday from 8:30 AM to 5:30 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang, can be reached at 571-272-7547. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-2600.

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/Fan Tsang/

Supervisory Patent Examiner, Art Unit 2614

/Simon Sing/

Examiner, Art Unit 2614

05/12/2008